

Before the
Federal Communications Commission
Washington, DC

In the Matter of

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MM Docket No. 99-232

*Amendment of Section 202(b),**Table of Allotments,**FM Broadcast Stations**(Fort Bridger, WY and Hyrum, UT)*

RM-9321

RECEIVED

To: Chief, Allocations Branch

AUG 17 1999

FEDERAL COMMUNICATIONS COMMISSION
 OFFICE OF THE SECRETARY

COMMENTS

KGNT, Inc. ("KGNT"), licensee of Station KGNT(FM), Smithfield, Utah, hereby submits its comments with respect to the *Notice of Proposed Rule Making*, DA 99-1233 (June 25, 1999).

With respect thereto, the following is stated:

The proposal of L. Topaz Enterprises for change of city of license of Station KNYN(FM) from Ft. Bridger, Wyoming, to Hyrum, Utah, clearly is flawed. Specifically, contrary to petitioner's assertions, the proposed reallocation would not result in a preferential arrangement of allotments and frequencies. Modification of FM and TV Authorizations to Specify a New Community of License, 4 FCC Rcd 4870 (1989), recon granted in part, 5 FCC Rcd 7094 (1990) ("Community of License"). As the FCC itself points out in the *NPRM*, Fort Bridger, Wyoming is not itself served by any other aural service. Although Station KNYN is not yet on the air, the Commission should not allow Ft. Bridger to lose its only existing aural service allotment, or allow Ft. Bridger's only likelihood for local service, to be deleted from the community.

Moreover, as the study that KNYN will have to submit pursuant to the *NPRM* will show (*NPRM* ¶ 3), the proposal will result in significant loss areas, and will result in an *inefficient* use of the spectrum, insofar as it will result in a Class C1 facility being downgraded to a Class C3

facility. As Topaz's study will no doubt demonstrate, the area from which KNYN is withdrawing future service is underserved, and more deserving of additional service, as opposed to the Logan Urbanized Area, which already is well served by numerous media outlets.

Finally, as the Commission notes, allotment of Channel 256C3 at Hyrum will result in a 70 dBu signal being provided over 100% of the Logan, Utah Urbanized Area. *NPRM* ¶ 3. The FCC has recognized that many community changes merely are an artifice to provide service to an already well-served area. This proposal is an example of such a device. As seen in Attachment 1, Hyrum merely is a bedroom community of Logan, and is interdependent with Logan. As such, the proposal is not entitled to credit as a "first service" to an unserved community.

As also noted in Attachment 1, the radio stations which serve the Cache Valley (including the proposed community of license (Hyrum, Utah)) include five radio stations: two AM Radio Stations - KVNU(AM) and KLGK(AM), both owned by M. Kent Frandsen; and three FM radio stations: KKEX(FM), KVFM(FM), and KBLQ(FM), all owned by M. Kent Frandsen. As the *NPRM* notes, M. Kent Frandsen is the assignee of Station KNYN. Thus, it is this same "M. Kent Frandsen" that already is the owner of the majority of the stations in the immediate market. As the assignee of Station KNYN in the course of its review of Assignment Application File No. BAPH-990119GQ, the FCC examined the extent to which Frandsen complied with both the Commission's multiple ownership rules and its policies concerning concentration of radio revenue. Insofar as Frandsen does not own any other stations in KNYN's *currently* authorized service area, the Commission was not obligated in the course of its review of Application File No. BAPH-990119GQ to determine what impact Frandsen's ownership of the station would have on the Commission's ownership policies in any *other* market, *i.e.* the Logan market. Needless to say,

were this station to be reallocated to Hyrum, however, the multiple ownership analysis that must be undertaken changes drastically. Specifically, Frandsen already owns five stations – 2 AM and 3 FM, in the market in which a Hyrum station would operate. Until such time as information is submitted demonstrating that Frandsen may legally own KNYN, as reallocated to Hyrum, the Commission can not and should not allow the any reallocation to occur.

In short, a number of issues and facts weighing against grant of this proposal exist. Grant of this proposal clearly will be contrary to the public interest, and therefore should be denied.

Respectfully submitted,

KGNT, INC.

By: 

Dan J. Alpert

Its Attorney

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August 16, 1999

ATTACHMENT 1

DECLARATION

Under penalty of perjury, I do hereby voluntarily make the following declaration.

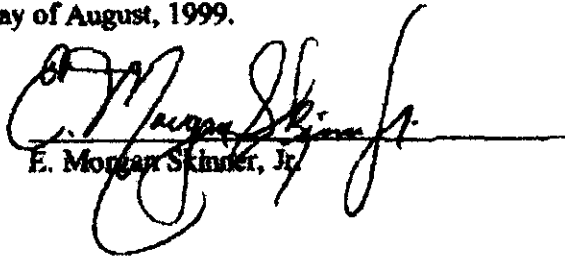
1. I am one of the beneficiary stockholders of Radio Station KGNT(FM) located in the Logan metro area and that I am familiar with the city of Hyrum, the Cache Valley and the urban area surrounding the city of Logan, generally referred to as the Cache Valley. I represent that the statements contained herein are true and accurate to the best of own personal knowledge.

2. There are a number of broadcast outlets which service Hyrum and the Logan urban area including a daily newspaper and two weekly newspapers. The radio stations which serve the Cache Valley including the proposed community of license (Hyrum, Utah) include five (5) radio stations; two (2) AM Radio Stations - KVNU(AM) and KLGN(AM), both owned by M. Kent Frandsen; four (4) FM radio stations: KKEX(FM), KVFM(FM), and KBLQ(FM), all owned by M. Kent Frandsen and KGNT (FM) owned by Legacy Communications Corporation. Stations KUSU and KUSR both are Utah State University noncommercial educational stations.

3. It is my belief that the proposed community of service is part of the Logan City population and business trading urban area. The proposed community of service has no business tax base. The proposed community of service is an active member of the Cache Valley Economic Development Council which promotes new business development into Cache County. There is no Chamber of Commerce in Hyrum because there is no distinct business community in the proposed community of service.

4. In short, Hyrum, the proposed community of service, is basically a bedroom community for the Logan metro area with most of the residents working at nearby Utah State University in Logan or in the downtown area of the city of Logan.

Signed and dated this 16th day of August, 1999.


E. Morgan Skinner, Jr.

CERTIFICATE OF SERVICE

I, Dan J. Alpert, hereby certify that on August 16, 1999 the foregoing document is being served by First Class Mail, postage prepaid, to the following persons:

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Dan J. Alpert